

BEFORE THE
Federal Communications Commission

WASHINGTON, D.C.

**ORIGINAL
 RECEIVED**

JUN - 4 1993

In the Matter of the
 Joint Petition for Rule Making of

THE NATIONAL TELECOMMUNICATIONS
 AND INFORMATION ADMINISTRATION

and

THE FEDERAL AVIATION ADMINISTRATION

For the Establishment of Technical
 Standards for the Mobile Satellite
 Service Between 1545-1559 MHz and
 1646.5-1660.5 MHz

RM-8223

FEDERAL COMMUNICATIONS COMMISSION
 OFFICE OF THE SECRETARY

COMMENTS OF AMSC SUBSIDIARY CORPORATION

AMSC Subsidiary Corporation ("AMSC"), which holds authority to construct and operate the U.S. Mobile Satellite Service ("MSS") system in the 1545-1559/1646.5-1660.5 MHz band,^{1/} tenders its Comments on the joint Petition for Rule Making of the NTIA and the FAA (collectively, the "Petitioners"). The Petition seeks the incorporation into the FCC's rules, through formal rule making, of certain technical standards for the protection of safety communications and spectral efficiency by MSS stations operating in the bands 1545-1559 MHz and 1646.5-1660.5 MHz.^{2/}

1/ AMSC Authorization Order, 4 FCC Rcd 6041 (1989); Final Decision on Remand, 7 FCC Rcd 266 (1992).

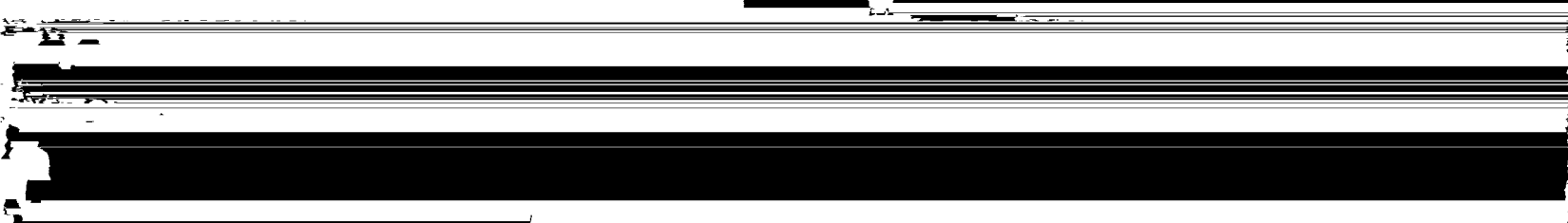
2/ Specifically, the Petitioners request codification of the three-page enclosure to their Petition, "Mobile Satellite Service System and Service Capabilities/Functions."

No. of Copies rec'd 0410
 List A B C D E 5

AMSC does not quarrel with the Petitioners' desire that MSS facilities adequately protect safety-related communications and use the spectrum efficiently. Indeed, AMSC fully supports the proposed technical standards in the Petition submitted by AMSC

AMSC is the sole entity with FCC authorization to provide domestic MSS in the subject band. AMSC Authorization Order.^{4/} AMSC's pending applications accept the proposed standards' propriety and confirm that AMSC's ground segment will meet them. As stated above, AMSC is willing to have the FCC condition AMSC's authorization on its complying with the proposed standards. Hence, rule making would be unnecessary to impose the NTIA and FAA requirements on AMSC. "[T]he choice between proceeding by general rule or by individual ad hoc litigation is one that lies primarily in the informed discretion of the administrative agency." Exemption From Radiotelegraph Requirements, 4 FCC Rcd 1521, 1522 (1989), quoting, SEC v. Chenery Corp., 332 U.S. 194, 203 (1947). Adopting the proposed standards is an inseparable part of the AMSC ground-segment licensing (adjudicatory) process. All pertinent issues will be aired, so the formality of a rule

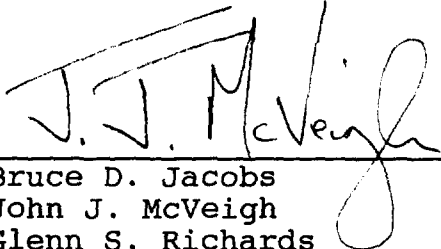
^{4/} The Petition asserts that the use of MSS systems for international service justifies a separate rule making. To the contrary, international radio protocols and coordination activities are the proper means to address issues arising from international MSS implementation. See, e.g., AMSC Authorization Order, 4 FCC Rcd at 6057. Also, regardless of




making will not be required. Petroleum Communications, Inc., 56
RR (P&F) 2d 1651, 1656 (1984).

Respectfully submitted,

AMSC SUBSIDIARY CORPORATION


Bruce D. Jacobs
John J. McVeigh
Glenn S. Richards
Fisher, Wayland, Cooper & Leader
1255 23rd Street, N.W.
Suite 800
Washington, D.C. 20037
(202) 659-3494


Lon C. Levin
Vice President and Regulatory
Counsel
AMSC Subsidiary Corporation
1150 Connecticut Avenue, N.W.
Fourth Floor
Washington, D.C. 20036
(202) 331-5858

Date: June 4, 1993

CERTIFICATE OF SERVICE

I, Cindi Smith, a secretary to the law firm of Fisher, Wayland, Cooper and Leader, hereby certify that I have this Fourth day of June, 1993, sent copies of the foregoing "Comments" by first class United States mail, postage prepaid, to:

Mr. Richard D. Parlow,
Associate Administrator
Office of Spectrum Management
National Telecommunications and
Information Administration
U.S. Department of Commerce
14th Street and Constitution Avenue, N.W.
Room 4099
Washington, D.C. 20230

Mr. Gerald Markey, Manager
Spectrum Engineering Division
Federal Aviation Administration
800 Independence Avenue, S.W.
Washington, D.C. 20553

Cindi Smith
Cindi Smith